

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DAVID LUCAS,)
)
 Plaintiff,)
)
 v.) **Case No.: 2:16-cv-00556-VEH-JEO**
)
 MOLTEN, ALLEN, & WILLIAMS,)
)
 Defendant.)

MEMORANDUM OPINION

The Plaintiff has filed a motion to proceed *in forma pauperis* (doc. 2). See 28 U.S.C. § 1915(a)(1); *see also Floyd v. United States Postal Serv.*, 105 F.3d 274, 276 (6th Cir. 1997) (both prisoners and non-prisoners are eligible for relief under § 1915(a)(1)). On the basis of the affidavit submitted in support of the motion, the Court determines that the Plaintiff is indigent. Accordingly, the motion will be granted.

Section 1915(e) provides that “[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous or . . . fails to state a claim on which relief may be granted[.]” 28 U.S.C. § 1915(e)(2)(B)(i), (ii). In the instant case, the plaintiff seeks relief under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, for “accrued overtime compensation not paid[] . . . in 1992/1993.” (Doc. 1 at 5; *see also* doc. 1 generally). “The statute of limitations for claims seeking unpaid overtime wages

generally is two years, but if the claim is one ‘arising out of a willful violation,’ another year is added to it. 29 U.S.C. § 255(a). *Alvarez Perez v. Sanford-Orlando Kennel Club, Inc.*, 515 F.3d 1150, 1162 (11th Cir. 2008). Under either of these time periods, the plaintiff’s claim is time barred, and thus fails to state a claim upon which relief may be granted. The plaintiff’s action will therefore be dismissed by separate order.

DONE and **ORDERED** this 27th day of April, 2016.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written in a cursive style.

VIRGINIA EMERSON HOPKINS
United States District Judge